

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

* * * * *

Nathaniel Smith,

Petitioner,

vs.

ORDER ADOPTING
REPORT AND RECOMMENDATION

United States of America,

Respondent.

Civ. No. 12-2783 (MJD/LIB)

* * * * *

Based upon the Report and Recommendation of United States Magistrate Judge Leo I. Brisbois, and after an independent review of the files, records and proceedings in the above-titled matter, **IT IS ORDERED:**

1. Petitioner's application for habeas corpus relief under 28 U.S.C. § 2241, (Docket No. 1), is construed to be a motion to vacate his conviction and sentence pursuant to 28 U.S.C. § 2255;
2. The Clerk of Court is directed to re-file Petitioner's submissions in this case, and docket them as a § 2255 motion in United States v. Smith, No. 09-286 (ADM/JJK); and
3. Petitioner's application to proceed in forma pauperis, (Docket No. 2), is DENIED AS MOOT.

DATED: December 10, 2012
At Minneapolis, Minnesota

s/Michael J. Davis
Michael J. Davis, Chief Judge
United States District Court